

**MOBILE HOME PARK - NOTICE OF SALE
OF UNDERLYING PROPERTY**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Mark A. Wheatley

LONG TITLE

General Description:

This bill addresses the sale or lease of mobile home parks.

Highlighted Provisions:

This bill:

► requires a mobile home park owner to provide a resident association with notice of certain offers to purchase or lease the mobile home park, if properly requested by the resident association;

► requires a mobile home park owner to provide a resident association with notice of certain advertisements or public notices relating to the sale or lease of a mobile home park, if properly requested by the resident association;

► requires a mobile home park owner to make certain information available to a resident association receiving notice of an offer to purchase or lease;

► provides certain resident associations the first opportunity to purchase or lease a mobile home park at the terms of certain offers, advertisements, or public notices;

► enacts provisions related to the respective rights of a mobile home park owner and a resident association in connection with a resident association's right to the first opportunity to purchase or lease the mobile home park;

► exempts certain transfers of a mobile home park from a resident association's right to the first opportunity to purchase or lease a mobile home park;

► allows a mobile home park owner to retain any deposit paid by a resident



association for a purchase or lease if the resident association violates a contract for the purchase or lease of the mobile home park as the sole remedy;

- ▶ allows a resident association that purchases or leases a mobile home park to vary rental or lease terms based on membership in the resident association;
- ▶ requires a mobile home park owner who sells or leases a mobile home park to a person other than a resident association with a right to the first opportunity to purchase or lease the mobile home park to record an affidavit of compliance in the county recorder's office; and
- ▶ prohibits a mobile home park owner from taking negative action against a mobile home park resident or resident association because of the resident association's exercise of rights created in this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

57-16-18, Utah Code Annotated 1953

57-16-19, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-16-18** is enacted to read:

57-16-18. Sale of mobile home park -- Resident association's right of first refusal.

(1) (a) Except as used in Subsection (10), for purposes of this section "lease" does not include the lease of a mobile home space if the mobile home space is the only property included in the lease.

(b) As used in this section, resident association means a resident association organized under Section 57-16-16.

(2) (a) A resident association that meets the requirements of Subsection (2)(b) may request that the owner of the mobile home park notify the resident association in accordance with this chapter of:

59 (i) a bona fide offer that the mobile home park owner intends to accept to purchase or
60 lease the mobile home park, or any portion of the mobile home park; and

61 (ii) an advertisement or other public notice by the mobile home park owner or the
62 mobile home park owner's agent that the mobile home park, or any portion of the mobile home
63 park, is for sale or lease.

64 (b) A resident association may not request notice under Subsection (2)(a) unless:

65 (i) at least 40% of the mobile home park residents who are owners of the mobile home
66 in which they live are members of the resident association;

67 (ii) the resident association is incorporated under the laws of this state; and

68 (iii) the resident association's articles of incorporation allow the resident association to
69 negotiate for the purchase of, to acquire, and to operate the mobile home park.

70 (c) A resident association shall request notice under Subsection (2)(a) by certified mail
71 to the mobile home park owner.

72 (3) If a resident association requests notice under Subsection (2), the mobile home park
73 owner shall:

74 (a) before selling or leasing the mobile home park or any portion of the mobile home
75 park, notify the resident association by certified mail of the existence of an offer to purchase or
76 lease the mobile home park, or a portion of the mobile home park; or

77 (b) within 14 days after the day on which an advertisement or other public notice is
78 issued or published by the mobile home park owner or the mobile home park owner's agent that
79 the mobile home park, or any portion of the mobile home park is for sale or lease, notify the
80 resident association of the advertisement or public notice by certified mail.

81 (4) A notice under Subsection (3) shall contain the following information or include a
82 statement that the resident association may request the following information, if available to
83 the mobile home park owner and applicable to the sale or lease:

84 (a) an affidavit from the proposed purchaser or lessee indicating the offered purchase
85 price or lease payment;

86 (b) the terms of any seller financing, including:

87 (i) the amount financed;

88 (ii) the interest rate; and

89 (iii) the amortization rate;

(c) the terms of assumable financing, including:

(i) the amount financed;

(ii) the interest rate; and

(iii) the amortization rate;

(d) the legal description of any real property included in a proposed exchange of real property;

(e) a statement of appraised or assessed value of any real property included in a proposed exchange of real property;

(f) a description of any improvements to be made by the mobile home park owner under the offer;

(g) a description of any economic concessions made by the mobile home park owner under the offer;

(h) a statement by the mobile home park owner allowing reasonable access to the property to be sold or leased by any person involved in the potential purchase, including:

(i) the resident association; and

(ii) a potential lender; and

(i) a statement that the mobile home park owner will make available to the resident association within seven days after the day on which a purchase agreement or a lease agreement between the mobile home park owner and the resident association is signed;

(i) a copy of any instrument granting an easement benefitting or burdening the mobile home park if the mobile home park owner is the grantor or grantee of the instrument;

(ii) any existing survey and legal description of the mobile home park;

(iii) an itemized list of the mobile home park's expenses for each of the previous three calendar years, including:

(A) the mobile home park's monthly operating expenses;

(B) utility consumption rates for each utility billing period;

(C) taxes assessed on the mobile home park;

(D) insurance paid to cover the mobile home park; and

(E) capital expenditures;

(iv) the most recent list of residents;

(v) the most recent list of vacant mobile homes and the vacancy rate at the mobile

home park for each of the previous three calendar years;

(vi) available information concerning the past or present existence of hazardous waste on the mobile home park premises or in close proximity to the mobile home park;

(vii) a record of the mobile home park's income for each of the previous three calendar years; and

(viii) any other information available to the mobile home park owner that is required by any potential lender chosen by the resident association to finance the resident association's purchase or lease of the mobile home park.

(5) The resident association shall keep the information provided to the resident association under Subsection (4) confidential.

(6) A mobile home park owner may not unreasonably:

(a) delay providing the notice or information required by this section; or

(b) take legal action for the purpose of delaying a resident association's exercise of a right granted by this section.

(7) (a) Subject to Subsections (7)(c) and (8), a resident association that requests notice under Subsection (2) has the right to the first opportunity to purchase or lease the mobile home park, or a portion of the mobile home park, upon the mobile home park owner's decision to sell or lease the mobile home park, or a portion of the mobile home park, at the same terms:

(i) of a bona fide offer that the mobile home park owner intends to accept to buy or lease the mobile home park, or any portion of the mobile home park; or

(ii) indicated in an advertisement or other public notice by the mobile home park owner or the mobile home park owner's agent that the mobile home park, or any portion of the mobile home park, is for sale or lease.

(b) (i) A resident association has a right under Subsection (7)(a) for each separate:

(A) bona fide offer that the mobile home park owner intends to accept to buy or lease the mobile home park, or any portion of the mobile home park; or

(B) advertisement or other public notice by the mobile home park owner or the mobile home park owner's agent that the mobile home park, or any portion of the mobile home park, is for sale or lease.

(ii) A resident association's right under Subsection (7)(a) does not apply to a separate offer, advertisement, or public notice if the separate offer, advertisement, or public notice is

identical to one made or published less than three months before the day of the subsequent offer, advertisement, or public notice.

(c) This section does not give a resident association a right to purchase or lease a mobile home park, or any portion of the mobile home park, if:

(i) the mobile home park, or any portion of the mobile home park, is acquired by:

(A) governmental taking; or

(B) a negotiated purchase by a governmental entity;

(ii) the mobile home park, or any portion of the mobile home park, is sold at a foreclosure sale;

(iii) the mobile home park owner transfers the mobile home park, or any portion of the mobile home park, by gift;

(iv) the mobile home park owner transfers the mobile home park, or any portion of the mobile home park, by devise as defined in Subsection 75-1-201(10);

(v) ownership in the mobile home park, or any portion of the mobile home park, transfers by operation of law; or

(vi) the mobile home park owner sells the mobile home park, or any portion of the mobile home park, to a person who would receive an intestate share of the mobile home park owner's estate under Title 75, Chapter 2, Part 1, Intestate Succession, if the mobile home park owner were deceased on the day on which the mobile home park owner sells the mobile home park, or any portion of the mobile home park.

(8) (a) Except as provided in Subsection (8)(c), a resident association may not purchase or lease a mobile home park, or any portion of a mobile home park, under this section unless:

(i) the resident association and the mobile home park owner contract for the purchase or lease within 45 days of the day on which the mobile home park owner mails a notice under Subsection (2)(a)(i); and

(ii) the resident association obtains any necessary financing and satisfies any contingencies required by the contract described in Subsection (8)(a)(i) within 135 days of the day on which the resident association and the mobile home park owner contract for the purchase or lease.

(b) Except as provided in Subsection (8)(c), a purchase or lease under this section shall be completed within 180 days of the day on which the mobile home park owner mails a notice

under Subsection (2)(a)(i), except that:

(i) if the mobile home park owner fails to provide the information required by this section in the time allowed by this section, the purchase or lease may be completed within 180 days of the day on which the mobile home park owner provides the required information; or

(ii) if litigation prevents the completion of the purchase or lease, the purchase or lease may be completed within 180 days of the day on which the litigation is completed, including any appeals.

(c) Notwithstanding any other provision in this section, a resident association and a mobile home park owner may agree to:

(i) waive the time limits imposed by this section; and

(ii) establish time limits different from those established by this section.

(9) (a) A resident association shall make reasonable efforts to obtain financing and satisfy any contingency agreed to in connection with a purchase agreement or lease agreement under this section.

(b) A resident association shall immediately notify a mobile home park owner upon the resident association's failure to obtain financing or to satisfy any contingency agreed to in connection with a purchase agreement or lease agreement under this section.

(c) (i) If a resident association violates a purchase agreement or a lease agreement entered into under this section, the mobile home park owner may retain any deposit paid by the resident association in connection with the purchase agreement or lease agreement.

(ii) A mobile home park owner's retention of a deposit under Subsection (9)(c)(i) is the mobile home park owner's only remedy for a resident association's violation of a purchase agreement or a lease agreement entered into under this section.

(10) If a resident association purchases or leases a mobile home park, or any portion of a mobile home park, under this section, the resident association may vary rental or lease terms for a resident on the basis of a resident's membership in the resident association.

(11) If a mobile home park owner sells or leases a mobile home park, or a portion of a mobile home park, to a person other than a resident association, the mobile home park owner shall file at the county recorder's office in the county in which the mobile home park is located, within seven days of the day on which the sale or purchase is completed, an affidavit attesting to the mobile home park owner's compliance with this section.

Section 2. Section **57-16-19** is enacted to read:

57-16-19. Mobile home park owner -- Prohibited conduct.

(1) A mobile home park owner may not take negative action against a resident or resident association because the resident association exercises the resident association's rights under Section 57-16-18.

(2) The following actions taken by a mobile home park owner against a resident or resident association within the six-month period immediately following the resident's or the resident association's exercise of a right under Section 57-16-18, create a rebuttable presumption that the owner has taken negative action under Subsection (1):

(a) an increase in rent;

(b) a mobile home park owner's failure to renew a resident's lease;

(c) a mobile home park owner's refusal to offer a lease; or

(d) a mobile home park owner's termination of a resident's tenancy.

Legislative Review Note

as of 2-7-05 11:50 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0133

Mobile Home Park-Notice of Sale of Underlying Property

10-Feb-05

12:56 PM

State Impact

No fiscal impact.

Individual and Business Impact

Individual and business impacts will vary according to the particular circumstances of any transaction.

Office of the Legislative Fiscal Analyst